UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

OCT 1 2010

Mr. Gerald Smith
Bureau of Land Management
50 Bastian Road
Battle Mountain, NV 89820

Subject: Cortez Hills Expansion Project Draft Supplemental Environmental Impact Statement (SEIS), Lander County, Nevada [CEQ # 20100323]

Dear Mr. Smith:

The U.S. Environmental Protection Agency (EPA) has reviewed the above referenced document. Our review and comments are provided pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) Regulations at 40 CFR Parts 1500-1508, and our NEPA review authority under Section 309 of the Clean Air Act.

EPA has rated this Draft SEIS as EC-2 – Environmental Concerns-Insufficient Information (see enclosed "Summary of Rating Definitions and Follow-Up Action"). Our rating of this document is based on our concerns regarding how mitigation for losses of surface water flows and riparian/wetland vegetation will be accomplished, as well as the need for additional information in the Final EIS on financial assurance and air emissions modeling. Our detailed comments are enclosed.

We appreciate the opportunity to review this Draft SEIS. We request a copy of the Final SEIS when it is filed with our Washington, D.C. office. If you have any questions, please call me at (415) 972-3521, or have your staff call Jeanne Geselbracht at (415) 972-3853.

Sincerely,

Kathleen M. Goforth, Manager
Environmental Review Office

Enclosures: EPA Summary of Rating Definitions and Follow-Up Action
EPA Detailed Comments

Cc: David Gaskin, Nevada Division of Environmental Protection
Katie Miller, Nevada Division of Wildlife

Cortez Hills Expansion Project Draft Supplemental EIS
EPA Comments -- September, 2010

Water Resources Mitigation

The Water Resources Mitigation Summary (Table 3.2-1) and Draft SEIS discussion provide useful information on each of the resources potentially affected by the project, as well as action thresholds, mitigation measures, follow up contingency measures, and effectiveness of the measures. For several water resources, loss of flow would be mitigated by piping water from another source at a specific flow rate based on the historical flows measured for those resources. It is unclear whether or how flows from alternate piped water sources would be adjusted throughout the year to mimic historic average seasonal flows for each individual water resource. We believe it is important that the natural functions and values of each resource, whether they are perennial, intermittent, or ephemeral, be preserved by adjusting flows to mimic their natural flow regimes. For example, supplying a steady flow rate to an ephemeral stream all year would not be appropriate, as it could significantly change the character of the aquatic resource, species composition, etc. We recommend that the Final SEIS clearly describe how natural flow regimes would be preserved through the mitigation process.

Wetland/Riparian Vegetation Mitigation

The Water Resources Mitigation Summary applies to those resources that could be affected by groundwater drawdown. However, neither the Water Resources Mitigation Summary (Table 3.2-1) nor the description of Mitigation Measure V1 in the Final EIS provide sufficient detail on the proposed new or enhanced mitigation sites that would compensate for wetland/riparian vegetation that would be affected by fill or groundwater drawdown. We recommended in our October 31, 2008 comments on the Final EIS that the mitigation plan describe the proposed new or enhanced mitigation sites, including their locations, existing values and functions, and the goals for future values and functions; and provide a timeline for compensation activities, with the goal of no temporal losses of this habitat in the project area. Compensation areas should be selected to avoid any direct, indirect, or cumulative impacts of the project that could reduce the success of the mitigation plan. The plan should describe contingency measures that would be implemented should the initial plan fail to meet specified goals, and specify who will be responsible for implementing the contingency measures. These details should be included in the Final SEIS.

Financial Assurance

The Final SEIS should include a cost estimate for implementing the mitigation and monitoring plan if all mitigation measures would need to be implemented, including construction, maintenance and replacement of guzzlers; purchasing compensation property; drilling new wells; construction of fences and pipelines; etc. The Final SEIS should also describe the financial assurances, such as a long-term trust fund, which will be required to ensure that sufficient funds will be available for as long as they may be needed for this purpose.

Air Emissions

It appears that, overall, the PM2.5 (particulate matter smaller than 2.5 microns) air modeling for the proposed project was conducted well. However, we do have questions about the inputs or assumptions in a couple of areas. For example, the modeling receptor grid is based on 200-meter spacing, rather than spacing of 50 meters or less, which we would normally recommend. It is unclear whether or how a tighter grid spacing would affect the results. This should be discussed

in the analysis and in the Final SEIS. In addition, the report contains very little information regarding: (1) the AERMOD surface characteristics inputs, and (2) the representativeness of the meteorological data from Boulder Valley, which is used as a surrogate for Crescent Valley in the analysis. Discussion of these issues should be added to the Final SEIS.